

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

TONY ROSSIN, ERIC CHANDLER,
TERRENCE JOSEPH, and HAKIM
ABDULLAH, in their individual
capacity,

Plaintiffs,

v.

Case No. 3:21-cv-342-TJC-JRK

SGT. L. CLINCH, Badge No: 7099,
in her individual capacity as a
Jacksonville Police Officer,

Defendant.

O R D E R

This cause is before the Court on Plaintiffs' Memorandum of Law to Support Request to the Clerk for Default Judgment Auth: Fed. R. C. P. 55(b)(1) (Doc. No. 15; "Motion"), filed June 16, 2021. In the Motion, Plaintiffs seek the entry of a default judgment in the sum of \$954,109,590.00 for "Defendant['s] . . . failure to file an answer in 21 days pursuant to" Rule 8, Federal Rules of Civil Procedure ("Rule(s)"). Motion at Exhibit 1 (Doc. No. 15-1).¹ Upon review of the Motion, the file, and the applicable law, the Motion is due to be denied for the reasons set forth herein.

¹ As the Motion and attached Exhibit do not contain numbered pages, citations to them are in accordance with the pagination assigned by the Court's electronic filing system (CM/ECF).

Rule 55 provides the requirements for entry of a default judgment. See Fed. R. Civ. P. 55(b). A default judgment may be entered “against a defendant who never appears or answers a complaint, for in such circumstances the case never has been placed at issue.” Solaroll Shade & Shutter Corp. v. Bio-Energy Sys., 803 F.2d 1130, 1134 (11th Cir. 1986). Here, the entry of a default judgment is not appropriate because Defendant is not in default. See Fed. R. Civ. P. 55. Defendant has appeared in this case and currently has a timely pending motion to dismiss. See Defendant Sgt. L. Clinch’s Opposed Motion to Dismiss Plaintiffs’ Second Amended Complaint (Doc. No. 13), filed June 3, 2021. Therefore, default judgment is not appropriate. Upon due consideration, it is

ORDERED:

Plaintiffs’ Memorandum of Law to Support Request to the Clerk for Default Judgment Auth: Fed. R. C. P. 55(b)(1) (Doc. No. 15) is **DENIED**.²

DONE AND ORDERED in Jacksonville, Florida on August 10, 2021.


JAMES R. KLINDT
United States Magistrate Judge

keh
Copies to:
Counsel of Record
Pro Se Parties

² “[A] magistrate judge ha[s] authority to deny [a] motion for default judgment.” Franklin v. Parnell, 461 F. App’x 823, 825 n.2 (11th Cir. 2011) (citing 28 U.S.C. § 636(b)(1)(A)); see also Baker v. Warner / Chappell Music, Inc., No. 14-cv-22403, 2015 WL 1534522, at *1 n.1 (S.D. Fla. Apr. 6, 2015) (unpublished) (finding same) (citations omitted).